

Comptroller of the Currency, Treasury

§ 19.240

(2) The informal hearing shall be recorded, and a transcript furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer(s). The presiding officer(s) may ask questions of any witness.

(3) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(e) *Standard for review.* A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the bank would materially strengthen the bank's ability:

(1) To become adequately capitalized, to the extent that the directive was issued as a result of the bank's capital level or failure to submit or implement a capital restoration plan; and

(2) To correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of classification of the bank based on supervisory criteria other than capital, pursuant to section 38(g) of the FDI Act.

(f) *Recommendation of presiding officer.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the OCC concerning the Respondent's request for reinstatement with the bank.

(g) *Time for decision.* Not later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing was requested, the OCC shall grant or deny the request for reinstatement and notify the Respondent of the OCC's decision. If the OCC denies the request for reinstatement, the OCC shall set forth in the notification the reasons for the OCC's action.

Subpart O—Civil Money Penalty Adjustments

SOURCE: 65 FR 77252, Dec. 11, 2000, unless otherwise noted.

§ 19.240 Civil money penalties.

(a) The maximum amount of each civil money penalty within the OCC's jurisdiction is set forth as follows:

U.S. Code Citation	Tier (if applicable)	Adjusted Maximum Penalty (in Dollars)
12 U.S.C. 93(b)	Tier 1 Tier 2 Tier 3	\$7,500 37,500 1,425,000
12 U.S.C. 164	Tier 1 Tier 2 Tier 3	3,200 32,000 1,425,000
12 U.S.C. 504	Tier 1 Tier 2 Tier 3	7,500 37,500 1,425,000
12 U.S.C. 1817(j)(16)	Tier 1 Tier 2 Tier 3	7,500 37,500 1,425,000
12 U.S.C. 1818(i)(2)	Tier 1 Tier 2 Tier 3	7,500 37,500 1,425,000
12 U.S.C. 1820(k)(6)(A)(ii)		275,000
12 U.S.C. 1832(c)		1,100
12 U.S.C. 1884		110
12 U.S.C. 1972(2)(F)	Tier 1 Tier 2 Tier 3	7,500 37,500 1,425,000
12 U.S.C. 3110(a)		37,500
12 U.S.C. 3110(c)	Tier 1 Tier 2 Tier 3	3,200 32,000 1,425,000
12 U.S.C. 3909(d)(1)		1,100
15 U.S.C. 78u-2(b)	Tier 1 (natural person) Tier 1 (other person) Tier 2 (natural person) Tier 2 (other person) Tier 3 (natural person) Tier 3 (other person)	7,500 70,000 70,000 350,000 140,000 700,000
42 U.S.C. 4012a(f)(5)	Per violation	2,000

(b) Except as provided in paragraph (c) of this section, the maximum amount of each civil money penalty set forth in the chart in paragraph (a) of this section, applies to violations that occurred on or after December 6, 2012.

(c) The maximum amount of the civil money penalty prescribed by 42 U.S.C. 4012a(f)(5), set forth in the chart in paragraph (a) of this section, applies to violations that occurred on or after July 6, 2012.

[77 FR 66533, Nov. 6, 2012, as amended at 77 FR 76356, Dec. 28, 2012]

Subpart P—Removal, Suspension, and Debarment of Accountants From Performing Audit Services

SOURCE: 68 FR 48265, Aug. 13, 2003, unless otherwise noted.

§ 19.241 Scope.

This subpart, which implements section 36(g)(4) of the Federal Deposit Insurance Act (FDIA Act) (12 U.S.C. 1831m(g)(4)), provides rules and procedures for the removal, suspension, or debarment of independent public accountants and their accounting firms from performing independent audit and attestation services required by section 36 of the FDIA Act (12 U.S.C. 1831m) for insured national banks and Federal branches and agencies of foreign banks.

[73 FR 22244, Apr. 24, 2008]

§ 19.242 Definitions.

As used in this subpart, the following terms shall have the meaning given below unless the context requires otherwise:

(a) *Accounting firm* means a corporation, proprietorship, partnership, or other business firm providing audit services.

(b) *Audit services* means any service required to be performed by an independent public accountant by section 36 of the FDIA and 12 CFR part 363, including attestation services.

(c) *Independent public accountant (accountant)* means any individual who performs or participates in providing audit services.

§ 19.243 Removal, suspension, or debarment.

(a) *Good cause for removal, suspension, or debarment*—(1) *Individuals*. The Comptroller may remove, suspend, or debar an independent public accountant from performing audit services for

insured national banks that are subject to section 36 of the FDIA if, after service of a notice of intention and opportunity for hearing in the matter, the Comptroller finds that the accountant:

(i) Lacks the requisite qualifications to perform audit services;

(ii) Has knowingly or recklessly engaged in conduct that results in a violation of applicable professional standards, including those standards and conflicts of interest provisions applicable to accountants through the Sarbanes-Oxley Act of 2002, Pub. L. 107-204, 116 Stat. 745 (2002) (Sarbanes-Oxley Act), and developed by the Public Company Accounting Oversight Board and the Securities and Exchange Commission;

(iii) Has engaged in negligent conduct in the form of:

(A) A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or

(B) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to perform audit services;

(iv) Has knowingly or recklessly given false or misleading information, or knowingly or recklessly participated in any way in the giving of false or misleading information, to the OCC or any officer or employee of the OCC;

(v) Has engaged in, or aided and abetted, a material and knowing or reckless violation of any provision of the Federal banking or securities laws or the rules and regulations thereunder, or any other law;

(vi) Has been removed, suspended, or debarred from practice before any Federal or state agency regulating the banking, insurance, or securities industries, other than by an action listed in § 19.244, on grounds relevant to the provision of audit services; or

(vii) Is suspended or debarred for cause from practice as an accountant by any duly constituted licensing authority of any state, possession, commonwealth, or the District of Columbia.

(2) *Accounting firms*. If the Comptroller determines that there is good